SETH M. REISS, AAL, ALLLC
Seth M. Reiss, Bar No. 2774
3770 Lurline Drive
Honolulu, HI 96816
Telephone: 808-521-7080
Facsimile: 808-675-5805
E-mail: seth.reiss@lex-ip.com

RANDAZZA LEGAL GROUP
Marc Randazza*
(Cal. Bar No. 269535)
3969 Fourth Avenue, Suite 204
San Diego, CA 92103
Telephone: 888-667-1113
Facsimile: 305-437-7662 (fax)
E-mai: MJR@Randazza.com
*(*Pro Hac Vice* Admission)

Attorneys for Plaintiff,
LIBERTY MEDIA HOLDINGS, LLC

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

LIBERTY MEDIA HOLDINGS, LLC Plaintiff, vs. HAWAII MEMBERS OF SWARM OF NOVEMBER 15, 2010 TO JANUARY 27, 2011, SHARING HASH FILE AE340D0560129AFEE8D78CE07F23 94C7B5BC9C05; AND DOES 1 through 12, Defendants.	Case No. 1:11-cv-00262 DAE-RLP (Copyright) **PLAINTIFF LIBERTY MEDIA HOLDINGS, LLC'S SCHEDULING CONFERENCE STATEMENT; CERTIFICATE OF NON-SERVICE** **SCHEDULING CONFERENCE:** Date: July 11, 2011 Time: 09:15 AM Magistrate Judge Richard L. Puuglisi

PLAINTIFF LIBERTY MEDIA HOLDINGS, LLC'S SCHEDULING CONFERENCE STATEMENT

Pursuant to the Court's Order Advancing the Rule 16 Scheduling Conference filed June 24, 2011 and Local Rule 16.2(b) of the Rules of the United States District Court for the District of Hawaii, Plaintiff LIBERTY MEDIA HOLDINGS, LLC ("Plaintiff" or "Liberty") hereby submits the following for its Scheduling Conference Statement.

I. BACKGROUND AND NATURE OF THE CASE.

Plaintiff Liberty is a California limited liability company doing business as CORBIN FISHER®. Liberty produces, markets, and distributes adult entertainment products, including Internet website content, videos, DVDs, photographs, etc. Plaintiff operates and maintains a website by and through which individuals who pay a monthly subscription fee can view its photographic and audiovisual works.

Defendant Does 1-12 are individuals whose true names and addresses are not yet known to Plaintiff who duplicated and distributed unauthorized and infringing copies of Plaintiff's copyrighted motion picture "Down on the Farm" utilizing the BitTorrent file transfer protocol during the period November 2010 through January 2011. All Doe Defendants participated in the same Bit Torrent swarm, identified by the AE3 Hash file, and all are located within the State of Hawaii.

The Complaint was filed on April 20, 2011.

Also on April 20, 2011, Plaintiff filed a Motion for Early Discovery requesting permission to issue early discovery to witness Time Warner Cable ("TWC") for the purpose of ascertaining the identity of Does 1-12 through the IP addresses attributable to TWC subscribes located in Hawaii implicated in the AE3 Hash BitTorent swarm.

On April 25, 2011, this Court granted attorney Marc Randazza's application to appear herein *pro hac vice.*

On April 29, 2011, Plaintiff filed an Emergency Motion for order requiring TWC to preserve information concerning the identities of subscribes utilizing the implicated IP addresses. On May 2, 2011, witness TWC opposed Plaintiff's Emergency Motion. On May 3, 2011, this Court granted Plaintiff's Motion for Early Discovery and denied, as moot, Plaintiff's Emergency Motion.

On May 6, 2011, Plaintiff served upon TWC a subpoena to produce documents and information related to the identities of the subscribers using the implicated IP addresses, in accordance with the Court's May 3, 2011 order, together with a copy of the Court's May 3, 2011 order. The return date on the subpoena is July 18, 2011. The subpoena has not yet been returned and Plaintiff still does not have information from which it can identify any of the Doe Defendants. As such no Doe Defendant has been served with the Complaint and no

Doe Defendant has answered or otherwise responded to the Complaint or appeared in this proceeding.

II. JURISDICTION AND VENUE.

This case is a copyright infringement case brought under17 U.S.C. §§ 101, et. seq. This Court's jurisdiction in the context of copyright infringement claims is original and exclusive pursuant to 28 U.S.C. §§ 1331 and 1338(a).

Plaintiff's civil conspiracy claim is a derivative claim brought pursuant to Hawaii law and is pendant and ancillary to Plaintiff's copyright claim.

Venue is proper in this district, pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(a), as each Doe Defendant is associated with an IP address implicated in the AE3 Hash file swarm that was assigned by TWC to a Hawaii based subscriber at the time of the infringing conduct. Accordingly, each Doe Defendant resides or may be found within this district.

III. JURY TRIAL DEMAND.

Plaintiff has not requested a jury trial.

IV. DISCOVERY DISCLOSURES.

Inasmuch as no defendant has appeared or been identified in this matter, no Rule 26(f), FRCP conference of the parties could be held and no Rule 26(f) Report of the Conference was filed.

Plaintiff submits that disclosures and a discovery plan should be deferred until the Doe Defendants, or some of them, have been identified and entered their appearance. As such, it might make sense to schedule a further scheduling conference.

V. DISCOVERY AND MOTIONS.

As explained above Plaintiff, in accordance with the Court's May 3, 2011 order, has served upon witness TWC a subpoena for documents and information pertaining to the identities of the TWC subscribers assigned the Hawaii based IP addresses implicated in the AE3 Hash file swarm. That subpoena has not yet been returned and is scheduled to be returned on July 18, 2011.

There has been no other discovery propounded or completed and there are no pending motions.

VI. SPECIAL PROCEDURES.

None at this time.

VII. RELATED CASES.

There are related cases filed on the mainland involving mainland participants in the same AE3 Hash file swarm. These related cases are similarly captioned, *i.e.*, *Liberty Media Holdings, LLC, Plaintiff vs. Swarm Sharing Hash File AE340D0560129AFEE8D78CE07F2394C7B5BC9C05; And Does 1 through*

___; *Defendants*. The districts and docket numbers of these related cases are as follows:

USDC Southern District of California: 11-cv-880-AJB-POR

USDC District of Massachusetts: 11-CV-108020-WGY

USDC Southern District of New York: 11-CV-04100

USDC Southern District of Florida: 11-CV-21525

USDC Western District of Wisconsin: 11-cv-00299

USDC District of Arizona: CV-11-00892-PHX-NVW

USDC District of Colorado: 11-CV-1171-WYD-KMT

VIII. ADDITIONAL MATTERS.

Attorney Marc Randazza requests leave to attend the Scheduling Conference by conference call and will provide a telephone number to the courtroom manager for this purpose in advance of the conference.

DATED: Honolulu, Hawaii, July 1, 2011

SETH M REISS, AAL, ALLLC
RANDAZZA LEGAL GROUP

/s/ Seth M. Reiss

SETH M. REISS
MARC J. RANDAZZA

Attorneys for Plaintiff
LIBERTY MEDIA HOLDINGS, LLC

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CERTIFICATE OF NON-SERVICE

As the identities of Doe Defendants are unknown at this time, Plaintiff is unable to serve any defendant.

DATED: Honolulu, Hawaii, July 1, 2011.

SETH M REISS, AAL, ALLLC
RANDAZZA LEGAL GROUP

/s/ Seth M. Reiss

SETH M. REISS
MARC J. RANDAZZA

Attorneys for Plaintiff
LIBERTY MEDIA HOLDINGS, LLC